

PATENT
Attorney Docket No. 224694
Customer No.: 23460

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: Julie Anne Loeger et al.

Art Unit: 3624

Application No. 10/701,098

Examiner: Lalita M. Hamilton

Filed: November 3, 2003

For: AWARD SYSTEM WITH INCREASED
PAYOUT OPTIONS

**APPELLANTS' SUPPLEMENTAL REPLY
UNDER 37 C.F.R. SECTION 41.43(b)**

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is filed in response to the Examiner's Supplemental Answer mailed on October 27, 2006, in accordance with 37 C.F.R. § 41.43(b). Appellants hereby respectfully request allowance of the pending claims for the reasons set forth in Appellants' Reply Brief filed on August 18, 2006, Appellants' Appeal Brief filed on March 30, 2006, and for the further reasons stated herein.

Status of Claims

Claims 1-29 are pending and stand finally rejected, and these rejections are presently being appealed.

A complete listing of the claims on appeal appears in the Claims Appendix of this paper.

Grounds of Rejection to be reviewed on Appeal

The grounds of rejection to be reviewed on appeal are the grounds stated in the Final Office Action mailed on August 11, 2005, for rejecting the pending claims. The grounds are summarized as follows:

Claims 1-29 were rejected as obvious under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0061093 to Todd (hereinafter "Todd") in view of U.S. Patent No. 6,786,400 to Bucci (hereinafter "Bucci").

Argument

Appellants have carefully reviewed the Supplemental Answer. The Supplemental Answer appears to be directed mainly at one of Appellants' several arguments, namely, that the Examiner improperly took Official Notice of a purported fact in the original Answer. The Supplemental Answer, however, does nothing more than repeat previous arguments in broader terms. For example:

"In the Answer mailed on June 20, 2006, the Examiner stated that **it is well-known to use a transfer mechanism that is standard across industry**, but stated, again, that Bucci was a teaching of a standard transfer mechanism and that it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of Bucci with Todd as a teaching of a standard routing system." (Supp. Answer at 2, emphasis added)

Once again, the Examiner uses recently introduced terminology, "standard across industry", that is ambiguous and misleading. Appellants addressed this point in their Reply and will not repeat those arguments here. (*See* Reply at 5). Appellants note, however, the Supplemental Answer's failure to respond to this issue by clarifying what was intended by this elusive terminology.

Moreover, the Examiner has misrepresented the scope of what was presented as "well-known" in the original Answer. As Appellants noted in their Reply, the original Answer stated that:

"It is **well-known that** a transfer mechanism that is standard across industry **may be used in transferring award value between accounts...**" (Original Answer at 6, emphasis added)

It was *this* statement about using such a system to transfer *award value between accounts*, to which Appellants objected in their Reply. (Reply at 4). In the Supplemental Answer, however, the Examiner has retreated to state a new, broader "fact" about merely using a standard transfer mechanism, with *no mention* of transferring awards. For at least the same reasons given in Appellants' Reply with respect to the original Answer, the inclusion of this statement is inappropriate here in the Supplemental Answer.

In any event, Appellants fail to see how acceptance of this "fact" would support the requisite *prima facie* case of obviousness; the Examiner still has not shown any motivation to combine the references, particularly in light of the "real evidence" given by Appellants that a purpose of one reference would be eviscerated by a combination with the other. (Reply at 6).

Finally, Appellants suggest that the Supplemental Answer is inconsistent with the restrictions of 37 C.F.R. § 41.43(a)(1) to the extent it addresses anything other than a "new issue raised in the reply brief."

Conclusion

Appellants' Appeal Brief and the rest of the record still clearly establish that no *prima facie* case of obviousness has been made out by the Examiner. The Examiner's Supplemental Answer does not have merit in light of Appellants' previously made arguments. Appellants respectfully request that the Examiner either withdraw the previously made rejections, or allow the case to be considered by the Board of Patent Appeals and Interferences without additional unnecessary delays.

Respectfully submitted,

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Date: December 21, 2006

Claims Appendix – Status of Appealed Claims

1. (Previously Presented) A financial transaction system comprising:

a financial institution;

a financial alternative to currency issued by the financial institution to one or more consumers; and

a participating merchant network accepting the financial alternative to currency to provide goods or services to the one or more consumers and receive reimbursement for the goods and services from the financial institution;

wherein the financial institution charges the one or more consumers for the goods or services purchased using the financial alternative to currency and provides to each of the one or more consumers an award related to a total value of the goods or services purchased by each of the one or more consumers using the financial alternative to currency; and

wherein further each of the one or more consumers' awards is electronically transferable, via a standard routing system, to one or more other financial accounts accepting electronic transfers through the standard routing system, the standard routing system being used by a multitude of financial institutions for transfers unrelated to the one or more consumers' awards.

2. (Original) The financial transaction system of claim 1, wherein the standard routing system is an American Bankers Association routing system.

3. (Original) The financial transaction system of claim 1, wherein the standard routing system is an Automated Clearing House routing system.

4. (Original) The financial transaction system of claim 1, wherein the one or more other financial accounts accepting electronic transfers through the standard routing system comprise one or more bank accounts.

5. (Original) The financial transaction system of claim 1, wherein the one or more other financial accounts accepting electronic transfers through the standard routing system comprise one or more investment accounts.

6. (Original) The financial transaction system of claim 1, wherein at least one of the one or more other financial accounts accepting electronic transfers through the standard routing system is not in the name of the one or more consumers whose award is electronically transferable to the one or more other accounts.

7. (Original) The financial transaction system of claim 1, wherein the each of the one or more consumers' awards are automatically electronically transferable, based on an accumulated award amount, to the one or more other financial accounts accepting electronic transfers through the standard routing system.

8. (Original) The financial transaction system of claim 1, wherein the each of the one or more consumers' awards are automatically electronically transferable, based on a predefined schedule, to the one or more other financial accounts accepting electronic transfers through the standard routing system.

9. (Original) The financial transaction system of claim 1, wherein the one or more other financial accounts accepting electronic transfers through the standard routing system are saved for faster subsequent transfers.

10. (Original) The financial transaction system of claim 1, further comprising an interface, accessible by the one or more consumers, for electronically transferring their award into the one or more other financial accounts accepting electronic transfers through the standard routing system.

11. (Previously Presented) A method for increasing a financial institution's revenue from a financial alternative to currency provided to one or more consumers, the method comprising:

receiving requests for reimbursement from one or more members of a participating merchant network accepting the financial alternative to currency, the one or more members providing goods or services to the one or more consumers using the financial alternative to currency;

reimbursing the one or more members of the participating merchant network;

transmitting periodically to each of the one or more consumers a request for repayment of the reimbursements related to each of the one or more consumers;

totaling the reimbursements over a predetermined time period corresponding to each of the one or more consumers;

providing an award to each of the one or more consumers related to the corresponding totaled reimbursement for each of the one or more consumers; and

allowing each of the one or more consumers to electronically transfer their award, via a standard routing system, to one or more other financial accounts accepting electronic transfers through the standard routing system, the standard routing system being used by a multitude of financial institutions for transfers unrelated to the one or more consumers' awards.

12. (Original) The method of claim 11, wherein the standard routing system is an American Bankers Association routing system.

13. (Original) The method of claim 11, wherein the standard routing system is an Automated Clearing House routing system.

14. (Original) The method of claim 11, wherein the one or more other financial accounts accepting electronic transfers through the standard routing system comprise one or more bank accounts.

15. (Original) The method of claim 11, wherein the one or more other financial accounts accepting electronic transfers through the standard routing system comprise one or more investment accounts.

16. (Original) The method of claim 11, wherein at least one of the one or more other financial accounts accepting electronic transfers through the standard routing system is not in the name of the one or more consumers who are allowed to electronically transfer their award to the one or more other accounts.

17. (Original) The method of claim 11, wherein the allowing each of the one or more consumers to electronically transfer their award comprises allowing each of the one or more consumers to automatically electronically transfer their award, based on an accumulated award amount, to the one or more other financial accounts accepting electronic transfers through the standard routing system.

18. (Original) The method of claim 11, wherein the allowing each of the one or more consumers to electronically transfer their award comprises allowing each of the one or more consumers to automatically electronically transfer their award, based on a predefined schedule, to the one or more other financial accounts accepting electronic transfers through the standard routing system.

19. (Original) The method of claim 11, wherein the one or more other financial accounts accepting electronic transfers through the standard routing system are saved for faster subsequent transfers.

20. (Original) The method of claim 11, wherein the allowing each of the one or more consumers to electronically transfer their award comprises providing an interface, accessible by the one or more consumers, for electronically transferring their award into the one or more other financial accounts accepting electronic transfers through the standard routing system.

21. (Previously Presented) An electronically transferable award system for increasing a consumer's use of a financial alternative to currency, the electronically transferable award system comprising:

an electronically transferable award, wherein the electronically transferable award was awarded to the consumer in proportion to the consumer's purchases with the financial alternative to currency; and

an electronic award transfer interface, wherein the electronic award transfer interface is accessible by the consumer and is used by the consumer to electronically transfer, via a standard routing system, their award into one or more other financial accounts accepting electronic transfers through the standard routing system, the standard routing system being used by a multitude of financial institutions for transfers unrelated to the one or more consumers' awards.

22. (Original) The electronically transferable award system of claim 21, wherein the standard routing system is an American Bankers Association routing system.

23. (Original) The electronically transferable award system of claim 21, wherein the standard routing system is an Automated Clearing House routing system.

24. (Original) The electronically transferable award system of claim 21, wherein the one or more other financial accounts accepting electronic transfers through the standard routing system comprise one or more bank accounts.

25. (Original) The electronically transferable award system of claim 21, wherein the one or more other financial accounts accepting electronic transfers through the standard routing system comprise one or more investment accounts.

26. (Original) The electronically transferable award system of claim 21, wherein at least one of the one or more other financial accounts accepting electronic transfers through the standard routing system is not in the name of the consumer.

27. (Original) The electronically transferable award system of claim 21, wherein the electronically transferable award is automatically electronically transferable based on an accumulated award amount.

28. (Original) The electronically transferable award system of claim 21, wherein the electronically transferable award is automatically electronically transferable based on a predefined schedule.

29. (Original) The electronically transferable award system of claim 21, wherein the electronic award transfer interface further presents to the consumer saved financial accounts previously defined by the consumer.